D.T.E. 99-88

Petition of Fall River Gas Company, under the provisions of G.L. c. 164,

§ 94G(a), for approval of a gas supply contract with a three-year term between the Company and Distrigas of Massachusetts Corporation.

APPEARANCE: Eric Krathwohl, Esquire

Rich, May, Bilodeau & Flaherty, PC

294 Washington Street

Boston, MA 02108

Petitioner

- INTRODUCTION

On October 25, 1999, Fall River Gas Company ("Fall River" or "Company") petitioned the Department of Telecommunications and Energy ("Department"), pursuant to G.L. c. 164, § 94A, for approval of a gas supply contract ("Contract") between the Company and Distrigas of Massachusetts Corporation ("Distrigas" or "DOMAC"). The petition was docketed as D.T.E. 99-88.[(1)]

Pursuant to notice duly issued, the Department conducted a public hearing at its offices on February 15, 2000. In support of its petition, the Company offered the testimony of James L. Harrison, a management consultant and vice president with the firm of Management Applications Consulting, Inc, and responded to nine (9) information requests.[(2)]

II. STANDARD OF REVIEW

In evaluating a gas utility's resource options for the acquisition of commodity resources as well as for the acquisition of capacity under G.L. c.164, § 94A, the Department examines whether the acquisition of the resource is consistent with the public interest. Bay State Gas Company, D.T.E. 98-79, at 1 (1998); Commonwealth Gas Company, D.P.U. 94-174-A at 27 (1996). In order to demonstrate that the proposed acquisition of a resource that provides commodity and/or incremental resources is consistent with the public interest, a local distribution company ("LDC") must show that, at the time of the acquisition or contract renegotiation, the acquisition (1) is consistent with the company's portfolio objectives, and (2) compares favorably to the range of alternative options reasonably available to the company and its customers, including releasing capacity to customers migrating to transportation. Id.

In establishing that a resource is consistent with the company's portfolio objectives, the company may refer to portfolio objectives established in a recently approved resource plan or in a recent review of supply contracts under G.L. c. 164, § 94A, or may describe its objectives in the filing accompanying the proposed resource. Id. In comparing the proposed resource acquisition to current market offerings, the Department examines relevant price and non-price attributes of each contract to ensure a contribution to the strength of the overall supply portfolio. Id. at 28. As part of the review of relevant price and non-price attributes, the Department considers whether the pricing terms are competitive with those for the broad range of capacity, storage and commodity options that were available to the LDC at the time of the acquisition, as well as with those opportunities that were available to other LDCs in the region. Id. In addition, the Department determines whether the acquisition satisfies the LDC's non-price objectives including, but not limited to, flexibility of nominations and reliability and diversity of supplies. Id. at 29.

III. DESCRIPTION OF CONTRACT

The term of the proposed Contract is the three-year period beginning on November 1, 1999 through October 31, 2002.[(3)] The Contract entitles Fall River to purchase up to 5,000 MMBtu of vaporized or liquid LNG on a daily basis ("Maximum Daily Quantity" or "MDQ") with a total annual contract quantity ("ACQ") not to exceed 755,000 MMBtu. (Exh. FRG-4, at section 1.1).

The Contract provides the Company with the option to reduce its MDQ in the event that the Company's on-system sales during the heating season, adjusted for normal weather, have decreased by more than five percent from the on-system sales from the prior year's heating season (id. at section 1.1 b). Under the Contract, the Company, by written notice given no later than June 1 following such heating season, may reduce the MDQ provided that the aggregate percentage reduction in the MDQ from the 5,000 MMBtu agreed upon in the proposed Contract shall not exceed the percentage reduction in firm on-system sales (id.). In the event that the Company requests quantities of natural gas in excess of the amount of firm service agreed upon in the proposed Contract, the Contract provides that DOMAC will attempt to provide such service on an interruptible basis (id.)

The Contract states that the point of delivery for LNG is the truck unloading flange of DOMAC's LNG terminal located in Fall River (Exh. FRG-4, at section 2.1). The point of delivery of vapor gas is the point of interconnection between buyer's facilities and Algonquin Gas Transmission Company ("AGT") on a primary basis at Fall River and on a secondary basis at meter stations in Swansea and Westport. Id.

Under the Contract, price has two components: (1) a Monthly Call Payment ("MCP"); and (2) a Gas Commodity Charge ("GCC"). The MCP is based on a price agreed upon by the parties and is subject to changes in the Producer Price Index (Exh. FRG-4, at section 5.2). The GCC is calculated based on the price agreed upon by the parties as adjusted according to a change in a ratio based on the arithmetic average of the price of gas posted in the first issue on or after the first day of each month in Inside FERC Gas Market Report for "Louisiana-Zone 1 Index", for deliveries made to TGP, for the most recent twelve month period ending October 31 (Exh. FRG-4, at section 5.4).

IV. THE COMPANY'S POSITION

A. Consistency with Portfolio Objectives

Fall River states its primary objective as replacement of expiring short-term contracts as well as long-term gas supply contracts in order to continue to reliably serve customer loads (Exh. JLH-1, at 2).[4] The Company also states that reliability during the peak season is critical because of the recent construction and future operation of two new electric generation facilities that will be sharing AGT's "G" lateral with Fall River (Exh. JLH-1, at 7). As a result, Fall River states the following:

in the near future, the lateral will be capacity constrained, raising the probability that any supplies, which utilize secondary delivery point capacity could be curtailed at times of extreme load. For this reason, Fall River Gas believes that it is essential that all supplies utilize firm, primary delivery point capacity in order to provide service to its customers (id.).

To meet its objectives, the Company states it issued a targeted solicitation by mail to twelve suppliers that would be able to provide a combination of vapor and liquid service to determine their willingness to provide service (Exh. JLH-1, at 3).[5] In its targeted solicitation, the Company requested the ability to procure both LNG and vapor services to provide appropriate flexibility during the peak season. Petition at 2. The Company also required all bidders to demonstrate that primary receipt and primary delivery points will be utilized to transport gas to the Company's city gate (Exh. FRG-4, at section 4.1 - 4.6).

Fall River received five proposals in response to the solicitation. In total, the five proposals included 19 bid alternatives (Exh. JLH-1, at 4). Each alternative was evaluated before any further negotiations were held (id.). Fall River states that the DOMAC proposal provided much more reliability and flexibility than the other proposals (Exh. JLH-1, at 11). Although DOMAC notified Fall River that it would not be willing to provide a

one-year contract, the DOMAC proposal was the only one to offer primary firm delivery point transportation capacity (Exh. JLH-1, at 10). During its negotiations with DOMAC, Fall River insisted that DOMAC's offer to the Company be no less favorable than the terms of comparable contracts DOMAC struck with other Massachusetts LDCs that have received Department approval (Exh. JLH-1, at 8).

B. Comparison with the Range of Available Options

After completing its contract evaluation process, Fall River concluded that DOMAC offered the most desirable supply contract. The Company selected the DOMAC proposal because the price of the proposal "was in the range of other proposals while offering several other advantages including the ability to adjust the contract quantity for load loss, the benefit of adding fuel diversity to the supply portfolio, the benefit of back hauling volumes across portions of the AGT system and the ability to take unused volumes as liquid" (Exh. JLH-1, at 11).

To ensure that the proposed DOMAC contract is comparable to other DOMAC gas supply contracts in the region, the Company performed a thorough review of information available in the Department published orders for contracts with other LDCs (Exh. D.T.E.

1-5). Because the terms of the contract are relatively simple and DOMAC is aware that the Department has all the contract terms for different parties and can determine the comparability of those contracts, the Company is confident that the proposed DOMAC contract is comparable to other DOMAC supply contracts recently approved by the Department. D.T.E. 1-5.

V. ANALYSIS AND FINDINGS

The Company's objectives in contracting with DOMAC are to (1) meet its forecast peak season sendout requirements, and (2) replace LNG volumes no longer available because of the expiration of its contracts with DOMAC. The record indicates that the two components of the contract price (the GCC and MCP), are comparable to similar prices previously approved by the Department and are based on actual gas pipeline demand charges and gas commodity charges for supplies delivered into Massachusetts (See Berkshire Gas Company, D.T.E. 98-110, at 4; Bay State Gas Company, D.T.E. 98-79, at 6; Bay State Gas Company, D.P.U. 95-87, at 10). Accordingly, the

Department finds that the Company's contract selection is consistent with the Company's stated objectives.

In determining whether a gas supply or capacity contract compares favorably to the range of alternative options reasonably available, the Department must consider both price and non-price attributes as part of a comprehensive assessment of the proposed Contract. The Department notes that Fall River evaluated the price and non-price factors of the Contract and the contribution of those factors to the strength of the Company's overall portfolio. The Department finds that Fall River selected resources that compare favorably to the range of alternative options reasonably available to the Company.

Because the LNG Contract is consistent with the Company's portfolio objectives and compares favorably to the range of alternative options reasonably available to the Company and its customers, the Department finds that Fall River's acquisition of this resource is consistent with the public interest and, therefore, the Contract filed on October 25, 1999 is approved.

VI. ORDER

Accordingly, after due notice, hearing and consideration, it is

ORDERED: That the gas supply Contract for peak-season sendout requirements between Fall River Gas Company and Distrigas of Massachusetts Corporation filed on October 25, 1999 is hereby approved.

By Order of the Department,

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James Connelly, Commissioner

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W. Robert Keating, Commissioner

Eugene J. Sullivan, Jr., Commissioner

Paul B. Vasington, Commissioner

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. (Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971).

1. Also on October 25, 1999, the Company filed a Motion for Protective Treatment of Confidential Information ("Motion") requesting that pricing information, and terms and conditions in the Contract between the Company and Distrigas be protected from public disclosure. (Motion at 1). On March 20, 2000, the Hearing Officer granted the Company's motion with respect to actual pricing information only. (Hearing Officer Ruling at 4).

2. The Department, on its own motion, moves into the record the Fall River's responses to Department information requests provided during this proceeding.

3. Fall River executed the proposed three-year Contract to replace a short term LNG supply Contract which expired on October 31, 1999. DOMAC had notified Fall River that it would not be willing to provide a one-year contract (Exh. FRG-2, at 10).

4. The proposed three year Contract replaces a short term LNG supply Contract which expired on October 31, 1999.

5. The Company contacted DOMAC, Aquila Energy, Boston Gas Co., Calpine-EMI, Commonwealth Gas Co., Duke Energy, East Coast Natural Gas Cooperative L.L.C., NiSource Inc., Providence Gas Co., Sempra Energy Trading, Southern Connecticut Gas, and Yankee Gas.